

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)	
)	
Federal-State Joint Board on Universal Service:)	CC Docket No. 96-45
Interim Hold-Harmless Provision)	FCC 99J-2
of the Commission's High-Cost Support)	
Mechanism)	

COMMENTS OF PUERTO RICO TELEPHONE COMPANY, INC.

Puerto Rico Telephone Company, Inc. ("PRTC"), by its attorneys, hereby submits comments in response to the Public Notice of the Federal-State Joint Board ("Joint Board") in the above-referenced proceeding.¹ In the Public Notice, the Joint Board seeks comments regarding the schedules and procedures for phasing out or eliminating the interim hold-harmless policy.² This provision is intended "to protect consumers in high-cost areas from potential rate shock during the shift to the new forward-looking mechanism."³ PRTC recommends that the Joint Board retain the hold-harmless policy, at least until the final results of the newly adopted high-cost support mechanism are fully analyzed and determined to be consistent with "the preservation and advancement of universal service."⁴ In addition, PRTC recommends that even

¹ Federal-State Joint Board on Universal Service Seeks Comment on the Interim Hold-Harmless Provision of the Commission's High-Cost Support Mechanism, CC Docket No. 96-45, Public Notice, FCC 99J-2 (rel. Nov. 3, 1999) ("Public Notice").

² To "hold-harmless" means that no state would receive less support than it currently does under existing high-cost support mechanisms.

³ Public Notice at 1.

⁴ See 47 U.S.C. § 254(b).

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with a hold-harmless policy in place, carriers serving insular areas should be treated in the same manner – i.e., on the same transition schedule – as rural carriers. Specifically, insular carriers should not be transitioned to the Commission’s new high-cost support mechanism until the Joint Board determines that universal service efforts will not be harmed by a transition and that such a mechanism predicts accurately a carrier’s costs of serving an area.

I. INTRODUCTION

PRTC is the incumbent provider of wireline telephone service throughout Puerto Rico. PRTC has strived to achieve universal service in Puerto Rico for over 25 years. As a result of PRTC’s efforts to keep rate increases to a minimum⁵ and its aggressive network investment, the telephone penetration rate in Puerto Rico has nearly tripled from 25 percent in 1974 to 74.2 percent today. While this increase marks significant improvements, it is not the end goal. Perhaps more than any state, the ongoing efforts in Puerto Rico to achieve universal service best illustrate the need to retain, for now, the hold-harmless policy or to treat insular carriers in the same manner as rural carriers until affordable service can be achieved and maintained, island-wide.

Federal universal service support plays a critical role in PRTC’s efforts to provide affordable, basic telephone service throughout Puerto Rico so that universal service may be achieved. The continued need for and critical importance of universal service support in providing service to consumers in rural, insular and high-cost areas in Puerto Rico is amplified by the island’s overall low telephone penetration level. For example, the national average

⁵ PRTC has held its local rates constant since 1982.

penetration rate is 94.4 percent (as of July, 1999).⁶ By comparison, the telephone subscribership rate in Puerto Rico remains around 74.2 percent. Raising rates as a result of lost universal service support, however, inevitably would mean driving some current subscribers off the network, which would be contrary to the goals of universal service. The possible effect of the loss of universal service funds on consumer rates would be felt both in local rates with the loss of high-cost support and indirectly in long distance rates with the loss of Long Term Support (“LTS”). Rate increases are a virtual certainty if the hold-harmless policy is eliminated, which for Puerto Rico will mean the loss of approximately \$133 million in universal service support.⁷ Although many carriers may have the option to raise rates, this is not a rational choice in Puerto Rico, where the combination of high-costs and low income places a premium on at least maintaining current support levels and network extension efforts. This PRTC cannot do upon elimination of universal service support.

II. THE HOLD-HARMLESS POLICY SHOULD BE MAINTAINED UNTIL FINAL RESULTS FROM THE NEW SUPPORT MECHANISM ARE FULLY ANALYZED

The Commission and the Joint Board have made clear that public policy favors safeguarding consumers from the rate shock that would result from eliminating federal universal

⁶ Telephone Subscribership in the United States (data through July 1999), Federal Communications Commission, Common Carrier Bureau, Industry Analysis Division, at 5, Table 1 (“Household Telephone Subscribership in the United States”) (rel. Oct. 1999).

⁷ Common Carrier Bureau Releases State-By-State Universal Service High-Cost Support Amounts for Non-Rural Carriers and Forward-Looking Cost Model Results, CC Docket Nos. 96-45 & 97-160, DA 99-2399, at attached spreadsheet (rel. Nov. 2, 1999) (“State High-Cost Support Amounts”).

service support.⁸ According to the Commission in the Seventh Report and Order, “[a]doption of a hold-harmless policy will both serve to avoid any potential rate shock when the new federal support mechanism goes into effect, and to prevent undue disruption of state rate designs that may have been constructed upon, and thus are dependent upon, current federal high-cost support flows.”⁹ In addition, the Commission stated in the Ninth Report and Order that “[w]e believe that a carrier-by-carrier hold-harmless provision is necessary to ensure that no sudden or undue disruption in consumer rates occurs during the transition to the new federal high-cost support mechanism based on forward-looking economic costs.”¹⁰ Having made these important public policy determinations, it is clear that the hold-harmless policy should not be eliminated or phased-out entirely according to an arbitrarily designated period of time.

It will not be possible to prescribe a specific phase-out schedule (either for a particular state or a particular carrier) until it can be determined, based on careful review and analysis of all model inputs and results, that the new support mechanism adopted by the Commission is consistent with the preservation and advancement of universal service. A precipitous loss of support under the existing hold-harmless policy would still cause the rate shock that the Commission and Joint Board rightly seek to avoid in the interest of promoting universal service.

⁸ Federal-State Joint Board on Universal Service, Second Recommended Decision, 13 FCC Rcd 24744, 24764 (¶ 53) (1998) (“Second Recommended Decision”); Federal-State Joint Board on Universal Service, Access Charge Reform, Seventh Report & Order and Thirteenth Order on Reconsideration in CC Docket No. 96-45, Fourth Report and Order in CC Docket No. 96-262 and Further Notice of Proposed Rulemaking, 14 FCC Rcd 8078, ___ (¶ 14), ___ (¶ 68) (1999) (“Seventh Report and Order”).

⁹ Seventh Report and Order, 14 FCC Rcd at ___ (¶ 68).

¹⁰ Federal State Joint Board on Universal Service, Ninth Report & Order and Eighteenth Order on Reconsideration, CC Docket No. 96-45, FCC 99-306, at 44 (¶ 79) (rel. Nov. 2, 1999) (“Ninth Report and Order”).

In the starkest case of Puerto Rico, the model mechanism will put at risk all high-cost universal service to Puerto Rico, assuming no adjustment to the model or the benchmark is made, placing continued universal service strides in peril.

Moreover, it would be at odds with the underpinnings of the hold-harmless policy to prescribe a specific elimination or phase-out term before the impact of the transition to the new high-cost support mechanism can be assessed fully and the ability of the mechanism to estimate accurately the costs of providing universal service can be verified. The hold-harmless policy was designed to mitigate the uncertainty of the forward-looking approach and to prevent “sudden or undue disruption” in consumer rates.¹¹ However, “disruption” is just as possible during the first year when universal service fund distributions are made under the new support mechanism as they are in the last year if support is eliminated on a flash-out basis. One way to ameliorate this effect would be to establish, prior to transition to the model methodology, a phase-down schedule over no less than a three-year period.

Finally, any measurable, abrupt reduction in support to a particular state or carrier potentially threatens statutory universal support principles, where “[c]onsumers in all regions of the Nation, including . . . those in rural, insular, and high cost areas, should have access to telecommunications and information services”¹² at rates comparable to those offered to consumers in rural areas. The Joint Board acknowledged the negative impact of sudden and significant reductions in support when it stated in the Second Recommended Decision:

¹¹ Ninth Report and Order at 44 (¶ 79). See also Seventh Report and Order, 14 FCC Rcd at ____ (¶ 51); Federal-State Joint Board on Universal Service, Second Recommended Decision, 13 FCC at 24763 (¶ 51).

¹² 47 U.S.C. § 254(b)(3).

[i]f substantial reductions [in support] were to occur in a single year, some consumers could experience rate shock. Both significant, sudden increases in the fund size overall, and significant decreases in the support that goes to a particular carrier, could have a notable impact on consumers' rates.¹³

These words ring especially true in the case of Puerto Rico because PRTC is not marked to receive any funding under the new high-cost support mechanism.¹⁴ To ensure that consumer rates do not significantly increase as a result of implementing the new support mechanism, the Joint Board should ensure that any reductions in support are implemented gradually so that the Joint Board can determine at each step that transition to the new model methodology will not harm universal service efforts. This would necessarily be an area-by-area determination.

III. INSULAR CARRIERS SHOULD BE TREATED IN THE SAME MANNER AS RURAL CARRIERS

Carriers that serve insular areas, like PRTC, often face unique circumstances and unusually high costs in their efforts to provide affordable service. For example, the U.S. national average unseparated cost per local loop to install wireline service is \$243.00.¹⁵ By comparison, the average unseparated cost per local loop in Puerto Rico is \$446.78.¹⁶ Puerto Rico's average cost per local loop is the fourth highest, second only to the rates reported by the Northern Mariana Islands, the Virgin Islands and Wyoming, two of which are insular areas served by rural carriers, and the third of which will receive over \$25 million ever under the model mechanism.¹⁷

¹³ Second Recommended Decision, 13 FCC Rcd at 24763 (¶ 51).

¹⁴ State High-Cost Support Amounts at attached spreadsheet.

¹⁵ Monitoring Report on Universal Service, CC Docket No. 98-202, Table 3.13 at 3-19 (June 1999) (“Unseparated NTS Revenue Requirement Per Loop by State”).

¹⁶ Id.

¹⁷ Id.

Further, the cost per local loop to install wireline service in mountainous regions of Puerto Rico ranges from \$5,000.00 to \$10,000.00, and in some cases, may exceed \$15,000.00.

PRTC faces much greater costs due to the fact that the island is characterized by a wide mountainous interior and sparsely populated areas. In addition, Puerto Rico is susceptible to unpredictable hurricane weather, often causing extensive damage to existing telecommunications infrastructure and rendering it further difficult to provide universal service throughout the island. A recent case in point is Hurricane Lenny, a category 3 storm with winds ranging from 111 to 130 miles per hour,¹⁸ which disrupted telephone service for more than 6,000 people.¹⁹ Despite these unique insular area conditions, the Commission has limited its cautious approach toward awarding universal service according to cost models to rural carriers. As a result, PRTC is treated as a non-rural carrier, and Puerto Rico is treated as if it shares the same characteristics as the urbanized, mainland areas served by regional Bell Operating Companies (“RBOCs”). Such treatment means that in an immediate transition to the model methodology, support to Puerto Rico will go from approximately \$133 million to zero, even though PRTC is a much smaller company than the RBOCs and cannot possibly benefit from the same lower costs and economies of scale experienced by these companies.²⁰

In addition, the model outputs for per state high-cost support show that Puerto Rico is essentially penalized based on the way its telecommunications services are provided, with one incumbent carrier providing service on an island-wide basis. The Common Carrier Bureau’s

¹⁸ Id.

¹⁹ Hurricane Lenny Smashes Into U.S. Virgin Islands, Miami Herald, at 1 (Nov. 18, 1999).

²⁰ Even if PRTC shared RBOC economies of scale, a loss of \$133 million undoubtedly would be a blow to these companies, as well.

table entitled “Federal High-Cost Support” shows that all but four jurisdictions presently receive rural support so that some measure of support is protected from the model methodology.²¹ Three of those four jurisdictions, the District of Columbia, Delaware and Rhode Island, currently receive no USF support. Only Puerto Rico receives USF support today, but because service is not provided by any “rural” carrier on the island, every dollar of USF support for Puerto Rico is at risk.

The substantial loss in support that the island will experience under the new mechanism demonstrates the importance of determining not only the proper treatment that should be accorded to insular areas, but also the importance of ensuring that universal service support is provided to consumers to all regions. The Commission’s treatment of “non-rural” carriers ultimately disserves a distinct but important segment of the nation – citizens living in insular areas who are not served by rural carriers, as in the case of Puerto Rico. Excluding this segment of the population is contrary to the statute. Specifically, Congress stated that “[c]onsumers in all regions of the Nation, including . . . consumers . . . in rural, insular, and high cost areas, should have access to telecommunications and information services.”²² The Commission’s intention to transition Puerto Rico to the model methodology on a different schedule than rural areas fails to implement Congress’s mandate that all consumers, specifically including those in insular areas, should receive telecommunications services at affordable rates.

PRTC renews its request that even with the hold-harmless policy in place, the Joint Board should treat similarly insular and rural carriers, such that insular carriers are not transitioned to

²¹ The four states and jurisdictions consist of the District of Columbia, Delaware, Puerto Rico and Rhode Island. State High-Cost Support Amounts at attached spreadsheet.

²² 47 U.S.C. § 254(b)(3) (emphasis added).

the proxy model methodology until it can be first determined that application of the model does not harm universal service goals.²³ Specifically, carriers serving insular areas should not be transitioned to the proxy model methodology before it can be determined that such a methodology accurately predicts the support required to provide universal services. This approach would permit a full transition to the model methodology, without threatening universal service efforts.

IV. CONCLUSION

For the reasons explained above, PRTC recommends that the Joint Board not prematurely depart from the hold-harmless policy, which should be maintained until the Joint Board fully analyzes the final results of the newly adopted high-cost support mechanism and determines that

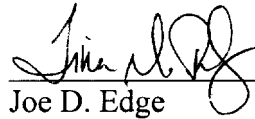
²³ See PRTC Petition for Reconsideration, CC Docket No. 96-45 at 1-3 (July 17, 1997).

they are consistent with “the preservation and advancement of universal service.”²⁴ At such time that a transition is suitable, it should be accomplished through a phase-down to avoid rate shock through measurable, abrupt losses in support. PRTC further recommends that even with the hold-harmless policy in place, carriers serving insular areas should be treated in the same manner as rural carriers. Specifically, insular carriers should not be transitioned to the new support mechanism until the Joint Board determines that application of this mechanism does not threaten universal service efforts.

Respectfully submitted,

PUERTO RICO TELEPHONE COMPANY, INC.

By:



Joe D. Edge

Tina M. Pidgeon

Courtney R. Eden

DRINKER BIDDLE & REATH LLP

1500 K Street, N.W.

Suite 1100

Washington, DC 20005

(202) 842-8800

Its Attorneys

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²⁴ 47 U.S.C. § 254(b).

CERTIFICATE OF SERVICE

I, Cynthia A. Queen certify that a copy of the foregoing comments was mailed by first-class mail, postage pre-paid, on the 1st day of December, 1999 to each of the following:

William E. Kennard
Commissioner
Federal Communications Commission
445 Twelfth Street, S.W.
Room TW-A325
Washington, DC 20554

Susan Ness
Commissioner
Federal Communications Commission
445 Twelfth Street, S.W.
Room TW-A325
Washington, DC 20554

Michael K. Powell
Commissioner
Federal Communications Commission
445 Twelfth Street, S.W.
Room TW-A325
Washington, DC 20554

Harold W. Furchtgott-Roth
Commissioner
Federal Communications Commission
445 Twelfth Street, S.W.
Room TW-A325
Washington, DC 20554

Gloria Tristani
Commissioner
Federal Communications Commission
445 Twelfth Street, S.W.
Room TW-A325
Washington, DC 20554

Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Room TW-A325
Washington, DC 20554
(By Hand Delivery)

Martha Hogerty
Public Counsel
Missouri Office of Public Counsel
301 West High Street, Suite 250
Truman Building
P.O. Box 7800
Jefferson City, MO 65102

Laska Schoenfelder
Commissioner
South Dakota Public Utilities Commission
State Capitol, 500 East Capitol Street
Pierre, SD 57501-5070

Patrick H. Wood, III
Chairman
Texas Public Utility Commission
1701 North Congress Avenue
P.O. Box 13326
Austin, TX 78711-3326

Sheryl Todd
Federal Communications Commission
445 12th Street, S.W.
Room 5-B540
Washington, D.C. 20554

Peter Bluhm
Director of Policy Research
Vermont Public Service Board
Drawer 20
112 State Street, 4th Floor
Montpieller, VT 05620-2701

Charlie Bolle
Policy Advisor
Nevada Public Utilities Commission
1150 E. Williams Street
Carson City, NV 89701-3105

Rowland Curry
Policy Consultant
Texas Public Utility Commission
1701 North Congress Avenue
P.O. Box 13326
Austin, TX 78701

Ann Dean
Assistant Director
Maryland Public Service Commission
6 Paul Street, 16th Floor
Baltimore, MD 21202-6806

Carl Johnson
Telecom Policy Analyst
New York Public Service Commission
3 Empire State Plaza
Albany, NY 12223-1350

Lori Kenyon
Common Carrier Specialist
Alaska Public Utilities Commission
1016 West 6th Avenue, Suite 400
Anchorage, AK 99501

David Dowds
Florida Public Service Commission
2540 Shumard Oaks Blvd.
Gerald Gunter Building
Tallahassee, FL 32399-0850

Greg Fogleman
Florida Public Service Commission
2540 Shumard Oaks Blvd.
Gerald Gunter Building
Tallahassee, FL 32399-0850

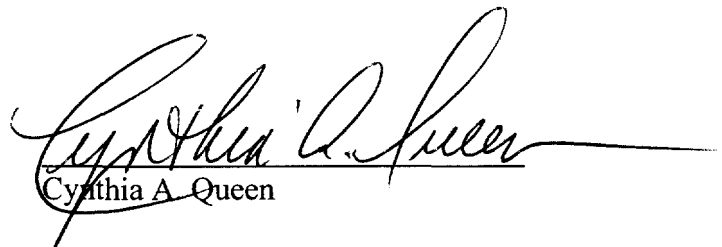
Doris McCarter
Economist
Ohio Public Utilities Commission
Telecommunications, 3rd Floor
180 East Broad Street
Columbus, OH 43215

Philip McClelland
Assistant Consumer Advocate
PA Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923

Susan Stevens Miller
Assistant General Counsel
Maryland Public Service Commission
16th Floor, 6 Paul Street
Baltimore, MD 21202-6806

Mary E. Newmeyer
Federal Affairs Advisor
Alabama Public Service Commission
100 N. Union Street, Suite 800
Montgomery, AL 36104

Tom Wilson
Economist
Washington Utilities & Transportation
Commission
1300 Evergreen Park Drive, S.W.
P.O. Box 47250
Olympia, WA 98504-7250



Cynthia A. Queen